

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1092 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

DHANVEEN PIGMENTS PVT. LTD

Versus

GUJARAT POLLUTION CONTROL BOARD

Appearance:

MR MIHIR H JOSHI for Petitioner
MR HARESH J TRIVEDI for Respondent No. 1
MR MAULIN R RAVAL for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE A.M.KAPADIA

Date of decision: 22/03/2000

ORAL JUDGEMENT

(Per : Panchal, J.)

Learned Counsel for the petitioner seeks permission to delete respondent no.3 from the petition, as presence of respondent no.3 is not necessary in order to decide the dispute involved in the petition. Permission as prayed for is granted. Name of respondent no.3 stands deleted from the petition.

Rule. Mr. Haresh J. Trivedi, learned Counsel waives service of notice of rule on behalf of the respondent no.1. Mr. Maulin R.Raval, learned Counsel waives service of notice on behalf of respondent no.2.

Having regard to the facts of the case, the petition is taken-up for final hearing today.

2. By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside the decision of the respondent not to consider the application for grant of further NOC/consent to the petitioner as conveyed vide letter dated February 18, 2000, which is produced at Annexure-M to the petition. The petitioner has also prayed to direct the respondent no.1- Board to permit the petitioner to commence commercial activity/production.

3. What is averred in the petition is that the petitioner is not a new Unit as contemplated by judgment of the High Court dated October 21, 1999 rendered in Special Civil Application No. 4473/97 and, therefore, the respondent no.1- Board is not justified in not issuing 'no objection certificate' on the basis of the said judgment. The petitioner has, therefore, filed present petition and claimed reliefs to which reference is made earlier.

4. Though the respondents are duly served, no reply is filed on behalf of any of the respondents controverting the averments made in the petition.

5. We may mention that Amar Pigments through its partner Ajay Desai has filed Special Civil Application No. 81/2000 against Gujarat Pollution Control Board claiming similar reliefs. Therein the Division Bench comprising M.S.Shah & R.R.Tripathi, JJ., has issued rule by an order dated February 8, 2000. The Division Bench while issuing rule had directed Gujarat Pollution Control Board to consider the application of Amar Pigments for 'no objection certificate' in accordance with law and in light of the observations made in the order and to

consider grant of 'no objection certificate' for trial production on such terms and conditions on which Gujarat Pollution Control Board normally grants 'no objection certificate' in similar cases. The Bench had also directed that the matter should be considered by the Gujarat Pollution Control Board within two weeks from the date of the order.

6. Mr. M.H.Joshi, learned Counsel for the petitioners states at the Bar that pursuant to interim order dated February 8, 2000, which was passed in Special Civil Application No. 81/2000, case of Amar Pigments was considered by the Gujarat Pollution Control Board and no objection certificate was granted to it vide letter dated February 18, 2000. This statement made at the Bar by the learned Counsel for the petitioner is not disputed by Mr. H.J.Trivedi, learned Counsel who appears on behalf of Gujarat Pollution Control Board. Under the circumstances, we are of the opinion that interest of justice would be served if Gujarat Pollution Control Board is directed to consider the application of the petitioner for no objection certificate, in accordance with law and in light of the observations made by the High Court in order dated February 8, 2000 which was passed in Special Civil Application No. 81/2000 as well as no objection certificate which was granted to Amar Pigments.

For the foregoing reasons, the petition partly succeeds. The decision of the respondent no.1- Board not to consider the application of the petitioner for grant of further NOC to the petitioner as conveyed vide letter dated February 18, 2000, which is produced at Annexure-M to the petition, is hereby set aside and quashed. Gujarat Pollution Control Board is directed to consider the application of the petitioner for no objection certificate in accordance with law and in light of the observations made by the High Court in order dated February 8, 2000, which was passed in Special Civil Application No.81/2000 as well as their own action of granting no objection certificate to Amar Pigments. This consideration shall be made within two weeks from today. Rule is made absolute to the extent indicated hereinabove, with no order as to costs. Liberty is reserved to the petitioner to move the Court in case of difficulty.

22.3.2000 (J.M.Panchal,J.) (A.M.Kapadia,J.)

(patel)